IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.9539 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. N.V. Bandiwadekar, for the Petitioners
Mr. G.N. Salunke for Respondent No.1.
Mr. M.H. Solkar, A.G.P. for Respondent No.2.

CORAM : F.I. REBELLO,J.
DATED : JANUARY 27, 2005

P.C.

. Rule. Heard forthwith.

2. Considering the issue involved it was pointed out to the parties that it is not possible to allow the teacher to remain on duty without the teacher being exonerated either in the criminal proceedings or in the enquiry that has to be held by the management. The order of the Tribunal has proceeded on the footing that the enquiry has not been held. The learned Counsel for the petitioner points out that considering the provisions of Section 11(2)(e) of the Maharashtra Private School (Conditions of Service) Regulations Act, 1977 the Tribunal considering the facts and circumstances ought to have imposed punishment of paying compensation instead of directing reinstatement.

3. The fact remains that the Respondent No.1 herein is charged for the misconduct. Once that be so an enquiry will have to be conducted. There is no provision in the Act which dispenses with the enquiry. In these circumstances the ends of justice will be met if the following order is passed:-

(i) The impugned order is set aside.

(ii) The initial order of termination dated 26th June, 2003 be treated as order of suspension. The Respondent NO.1 be paid suspension wages in terms of the Act and the Rules.

(iii). On the petitioner applying to the Respondent NO.2 for approval for suspension that should be granted forthwith.

(iv) It will be open to the petitioners to conduct an enquiry and thereafter to take appropriate action which they are entitled to in law.

(v) The suspension to continue till the final orders are passed by the petitioners after receiving the report by the Committee to be appointed in terms of the Act and the

Rules.

(vi) The Respondent No.1 co-operate with the enquiry.

(vii) Rule made absolute accordingly. No order as to costs.

. Personal Secretary of this Court to issue authenticated copy of this order to the parties.

(F.I. REBELLO, J.)